

means by this observation. The Examiner is requested to cite the requirement on which this observation is based that a term must be defined by the claim.

In addition, the Examiner states that the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is not clear for what the requisite degree the specification must provide. Moreover, it is unclear whether the Examiner is attempting to make a rejection under 35 U.S.C. § 112, first paragraph, by stating that the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Nonetheless, as noted above, the use of the term "including" in a claim is recognized as a valid way of claiming an invention, and there is nothing wrong with its use, per se.

Claims 1 and 4 - 6 have been rejected under 35 U.S.C. §102(b) as being unpatentable over the publication by SHRI RAM Inst. For Ind. Research. The Examiner recognizes that this reference teaches a pyrolyzing process being carried out in a pyrolysis tube consisting of nickel.

Applicant recognizes the disclosure of this reference in the Background Section of the present application. As stated on page 2 of the present application, nickel by itself as the material of construction of the reaction zone, e.g., the tubular reactor in which the pyrolysis is typically carried out, is unsuitable for commercial-size pyrolysis tubes. In accordance with the present invention, the nickel is present as a lining that is mechanically supported. On page 2, lines 22 - 25, Applicant states that it is surprising that use of mechanically supported nickel lining in the pyrolysis of hydrochlorofluorocarbons and hydrofluorocarbons gives greater yield of fluoromonomer and other high value reaction products

than when nickel alloy is used as the surface of the reaction zone.

It is respectfully submitted that the SHRI RAM publication fails to disclose *mechanically supported* nickel as specifically recited in claim 1. Therefore, the rejection of claims 1 and 4 - 6 under 35 U.S.C. §102(b) as being unpatentable over the publication by SHRI RAM Inst. For Ind. Research is improper and should be withdrawn.

Claims 1 and 5 - 11 were rejected under the judicially created doctrine of double patenting over claims 1 and 3 - 10 of copending Application Serial No. 10/431407. The Examiner alleges that both applications are generally claiming a process for pyrolyzing a hydrocarbon to a fluoromonomer in a reaction zone lined with nickel. Applicants respectfully traverse this statement. The claims of the present application are directed to pyrolyzing hydrochlorofluorocarbon or hydrofluorocarbon to fluoromonomer, while the claims of the copending '407 application are directed to pyrolyzing tetrafluoroethylene to hexafluoropropylene. Tetrafluoroethylene is not a hydrochlorofluorocarbon (or a hydrofluorocarbon), as the Examiner alleges. It is a monomer (and a straight fluorocarbon, no other elements than F and C). Therefore, the Examiner has failed to present a correct rationale for the obviousness of the claims being rejected over the claims of the cited application.

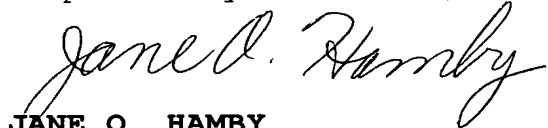
In addition, it is unclear whether the Examiner is basing his rejection on the judicially created doctrine of *obviousness* type double patenting, as this is not stated in the rejection, per form paragraph 8.35. Moreover, since the alleged conflicting claims are in another application, (the '407 application), and not a patent, the rejection should have been a *provisional* obviousness-type double patenting rejection because the alleged conflicting claims have not in fact been patented.

For all of the foregoing reasons, it is respectfully submitted that the double patenting rejection as set forth on pages 3 and 4 of the Office Action is improper and should be withdrawn.

Applicant notes that claims 2 and 3 have not been rejected under any prior art. If these claims contain allowable subject matter, Applicant would appreciate an indication of such.

For all the above reasons, allowance of claims 1 - 11 is respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, reading "Jane O. Hamby".

**JANE O. HAMBY**

ATTORNEY FOR APPLICANT

Registration No.: 32,872

Telephone: (302) 892-7907

Facsimile: (302) 892-7925

Dated: January 21, 2005